



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street, SE
Charleston, WV 25304-2345
Phone: (304) 926-0495
Fax: (304) 926-0497

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

**AMENDED ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Mingo Logan Coal Company
1000 Mingo Logan Avenue
Wharncliffe, West Virginia 25651

DATE: April 5, 2007

ORDER No.: 45

RE: WV/NPDES Permit No. WV1004956

This Amended Order is issued pursuant to the authority vested in the Director of the Division of Water and Waste Management (hereinafter "DWWM") of the Department of Environmental Protection (hereinafter "DEP") under Chapter 22, Article 11, Section 1, et. seq., including but not limited to, Chapter 22, Article 11, Section 6, of the Code of West Virginia to Mingo Logan Coal Company. It amends and institutes revisions to Order No. 45 issued on March 28, 2005.

FINDINGS OF FACT

In support of this Amended Order, the Director hereby finds the following:

1. Permittee owns and operates a treatment system, which discharges pollutants into the Waters of the State.
2. Permittee was issued WVPNDES Water Pollution Control Permit No. WV1004956, on March 28, 2005, for the operation and maintenance of its facilities, and for the discharge of pollutants from these facilities.

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3. WVNPDES Permit No. WV1004956 prescribes certain effluent limitations and monitoring requirements for selenium.
4. The permittee cannot achieve compliance with the final effluent limitations for selenium. A schedule of compliance is contained herein to implement a phased abatement plan to upgrade the treatment facilities
5. The Environmental Protection Agency (hereinafter "EPA") has concluded that a fish-tissue approach is better than a conventional water concentration approach to protect aquatic life from chronic adverse effects of selenium. EPA has noticed Draft Aquatic Life Criteria for Selenium in the Federal Register dated December 17, 2004, and is seeking scientific information, data and views.
6. DEP has undertaken a study to determine selenium bioaccumulation rates in select Waters of the State. DEP intends to use the results of this study to review the selenium criteria with the most current state of science on selenium toxicity.

In consideration of the above, this Amended Order modifies the final effluent limitations and interim self-monitoring requirements, and requires compliance with the schedule contained herein.

ORDER OF COMPLIANCE

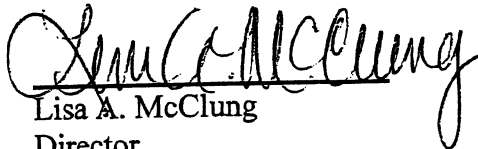
And now this 5th day of April, 2007, the permittee is hereby ORDERED to comply with the following:

1. Your permit is hereby modified to extend the compliance deadline for your final selenium effluent limitations for three (3) years from the effective date of this Order for the outlets in Attachment A.
2. Comply with the interim self-monitoring and reporting requirements specified in Attachment A until compliance with the Schedule established in Attachment B is attained. The interim selenium self-monitoring requirements are subject to all requirements and conditions of a WVNPDES Water Pollution control Permit.
3. The final selenium effluent limitations and monitoring requirements shall be attained in accordance with the schedule established in Attachment B.
4. Permittee will submit a Status Report to the inspector every six (6) months from the effective date of this Amended Order. The Status Report shall indicate the progress toward completion of the interim requirements and indicate a projected completion date.

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Compliance with the terms and conditions of this Amended Order shall not be construed to relieve the permittee of the obligation to comply with the terms and conditions of its WVNPDES Permit or of any applicable State or Federal law. Violation of this Amended Order is a violation of the West Virginia Code Chapter 22, Article 11, and may result in enforcement actions as outlined in the Act.

This Amended Order shall be effective upon receipt.


Lisa A. McClung
Director

Attachments
cc: Regional Office
Inspector
Headquarters

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge from Outlet Number(s) listed below:
2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/Conc	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type	
001	L	37°54'19" 81°50'46"	925	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated	
				pH	03/28/2005		Conc	6.00	Report Only	Report Only	Std Units	Semi-monthly	Grab	
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	Report Only	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	Report Only	0.50	ML/L *	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	Report Only	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	1.42	Report Only	2.46	MG/L	Semi-monthly	Grab
					03/28/2005	08/29/2006	Conc	Report Only	1.00	Report Only	1.73	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005	08/30/2006	Conc	N/A	2.00	Report Only	3.47	MG/L	Semi-monthly	Grab
					08/30/2006		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab	
				Aluminum, Total Recoverable	03/28/2005	03/28/2008	Conc	Report Only	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	04/29/2008		Conc	Report Only	0.08	Report Only	0.14	MG/L	Semi-monthly	Grab
				Aluminum, Dissolved (As AL)	03/28/2005		Conc	Report Only	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
(See 3, 4)														

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
003	B	37°51'56" 81°50'31"	1466	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	Report Only	Report Only	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	0.50	ML/L*	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	6.00	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
					04/16/2007		Conc	N/A	0.08	0.14	MG/L	Semi-monthly	Grab
		(See 3, 4)		Aluminum, Dissolved (As Al)	03/28/2005		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
004	B	37°52'05" 81°50'31"	1423	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	0.50	ML/L *	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	6.00	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
					04/16/2007		Conc	Report Only	0.08	0.14	MG/L	Semi-monthly	Grab
				Aluminum, Dissolved (As AL)	03/28/2005		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
006	B	37°50'54" 81°52'06"	1427	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	Std Units	Semi-monthly	Grab
				pH	03/28/2005		Conc	6.00	Report Only	9.00			
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	0.50	M/L*	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	5.26	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	2.00	3.47	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
					04/16/2007		Conc	Report Only	0.08	0.14	MG/L	Semi-monthly	Grab
				Aluminum, Dissolved (As AL)	03/28/2005		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
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[illegible]

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
008	B	37°52'19" 81°51'58"	1420	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	0.50	ML/L*	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	5.26	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	2.00	3.47	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
					04/16/2007		Conc	Report Only	0.08	0.14	MG/L	Semi-monthly	Grab
			Aluminum, Dissolved (As AL)	03/28/2005		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab	
			Selenium, Total (As SE)	03/28/2005		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab	
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							Quant/Conc	Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
009	B	37°52'42" 81°51'11"	1468	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	Std Units	Semi-monthly	Grab
				pH	03/28/2005		Conc	6.00	Report Only	Report Only	9.00	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	Report Only	Report Only	70.00	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	Report Only	0.50	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	Report Only	Report Only	6.00	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	Report Only	Report Only	4.00	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
					04/16/2007		Conc	Report Only	Report Only	Report Only	0.14	Semi-monthly	Grab
				Aluminum, Dissolved (As Al)	03/28/2005		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
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							Quan/Conc	Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
011	B	37°52'14" 81°52'18"	1409	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	0.50	ML/L*	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	5.26	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	2.00	3.47	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
					04/16/2007		Conc	Report Only	0.08	0.14	MG/L	Semi-monthly	Grab
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							Quant/Conc	Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
012	B	37°52'32" 81°53'55"	1320	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
				Settleable Solids	03/28/2005		Conc	Report Only	Report Only	0.50	ML/L*	See Section A of Permit	Grab
				Selenium, Total Recoverable	03/28/2005	03/28/2011	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly	Grab
					03/29/2011		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly	Grab
				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	5.26	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	Report Only	2.00	3.47	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
013	B	37°51'48" 81°50'10"	1464	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	N/A	9.00	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
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				Manganese, Total	03/28/2005		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly	Grab
				Aluminum, Total (as Al)	03/28/2005	04/15/2007	Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
015	B	37°52'31" 81°52'59"	1361	Flow	03/28/2005		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly	Estimated
				pH	03/28/2005		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly	Grab
				Total Suspended Solids	03/28/2005		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly	Grab
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				Iron, Total (As Fe)	03/28/2005		Conc	Report Only	3.00	5.26	MG/L	Semi-monthly	Grab
				Manganese, Total	03/28/2005		Conc	N/A	2.00	3.47	MG/L	Semi-monthly	Grab
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				Aluminum, Dissolved (As AL)	03/28/2005		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly	Grab
		(See 3, 4)											

ATTACHMENT B
SCHEDULE OF COMPLIANCE

Interim Requirement

Compliance Date

1. Schedule a meeting with your regional permit supervisor and inspector to discuss the applicability of the special material-handling plan and conceptual plan(s) for the treatment of selenium, including any pilot scale treatment system.

On or before four (4) months from the effective date of this Amended Order.

2. Submit a Status Report to the inspector.

Every six (6) months from the effective date of this Amended Order.

3. Surface mines only. Submit a special material-handling plan for selenium if one (1) or more years of coal extraction remain. The plan shall be submitted to the regional office for approval and shall detail the measures and steps to isolate the selenium producing material. The plan shall be considered a revision to the Surface Mining Permit and be implemented upon approval.

On or before six (6) months of the effective date of this Amended Order.

4. Submit a treatment plan detailing designs and appurtenances to prevent the discharge of selenium in concentrations greater than the final selenium effluent limitations. The plan shall be submitted to the regional office for approval. The plan shall be considered a revision to the Surface Mining Permit and modification to the NPDES Permit.

On or before twelve (12) months of the effective date of this Amended Order.

5. Commence construction and/or installation of the treatment facilities and/or pilot scale treatment system.

On or before eighteen (18) months of the effective date of this Amended Order

6. Complete installation or construction of the treatment facilities, and achieve compliance with the final selenium effluent limitations.

On or before thirty-six (36) months of the effective date of this Amended Order.

RIGHT TO APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this agency action as provided under West Virginia Code § 22-11-21.

Pursuant to the provisions of § 22B-1-7(c), a person subject to this action (permittee) may file an appeal to the Environmental Quality Board (EQB) within 30 days of being served notice of such agency action.

For other parties (citizens) adversely affected or aggrieved by this action, an appeal may be filed to the EQB within 30 days after the date upon which service was complete to the subject person "(permittee)". Such Notice of Appeal shall be sent to the EQB on the form prescribed by the Board.

West Virginia Environmental Quality Board
601 57th Street, SE
Charleston, West Virginia 25304

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Mingo Logan Coal Company
 1000 Mingo Logan Avenue
 Wharncliffe, WV 25651

PS Form 3800, June 2002 See Reverse for Instructions

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<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>10001 7821 0001 1000</p> <p>Mingo Logan Coal Company 1000 Mingo Logan Avenue Wharncliffe, WV 25651</p> <p>ORDER NO-45</p> <p>2. Article Number (Transfer from service label)</p>	<p>A. Signature X Shirley Lowe <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No Headquarters / NPDES</p> <p>APR 17 2007</p> <p>Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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